

Initial Comments Submitted on Draft CIDMP

Note: these comments were based on an earlier draft, therefore some of the page number references may be outdated.

♦ Comments sent by Trout Unlimited (Bill Robinson) on January 3, 2001.

1. Elevate the profiles of the regulatory requirements of ESA and CWA in Irrigation District activities.
" . . . stronger regulatory recognition (certainty) language . . . "
2. Language contains uncertainties when integrating ESA and CWA.
3. In HCP discussion: note that the text does not mention " . . . the Act requires the applicant to consider alternatives to the takings and the need to justify why such alternatives were not utilized."
4. 4(d) rules are not for certainty of landowners, but for the conservation of species.
5. Language on page 51 should be re-done to undo the assumption that all Irrigation District diversions are screened. In fact many, if not all, of them are screened and many of them are not in properly functioning condition.
6. In the Adaptive Management and/or Funding Section, have more developed recognition of Irrigation Districts' effort in " . . .buying back water from their customers and dedicating that water to in-stream flows, in situations where the Irrigation Districts are asking for public monies to implement their CIDMPs."
7. What is a "5-yr NFHCP" (page 61)? (This typographical error was corrected.)

♦ Comments submitted by WA State Potato Commission (Patrick Boss) and Hop Growers of WA (Steve George) on January 5, 2001.

1. Address the impacts of ESA operational and facility commitments on Irrigation District customers; how they " . . .will affect the Irrigation District's ability to provide irrigation waters to these customers and what changes in customer practices and uses can be imposed on the customers by the Irrigation District ESA agreements."
2. How do the options provided in the CIDMP coordinate with FOTG revisions? Are CIDMP and FOTG compatible?
3. Concerned that obligations may be imposed by Irrigation Districts to Irrigation District customers in order to achieve ESA and CWA requirements.
4. The final form of CIDMP should include more information on " relative costs and commitment levels, specifically as they relate to irrigation district customers" and the pathway chosen.
5. CIDMP appears to assume that ID waters are waters of the state that must meet standards set by the EPA – Irrigation Districts and their water users do not universally accept this.
6. TMDL process is well defined.
7. Draft CIDMP should clear up the misunderstanding that all state standards have or will be reviewed under a section 7 consultation process. "Existing state water quality standards were not specifically designed to be protective of endangered species."

8. CIDMP provides a good description of relative comparative costs to an Irrigation District for development of each of the four ESA options. However, implementation costs are less descriptive. Address the direct implementation costs to the Irrigation District and the potential costs that might be imposed by Irrigation Districts on their customers.
9. CIDMP makes it clear that ESA and CWA options presented are voluntary. Realistically, Irrigation Districts must select one of the pathways.
10. An alternative path is provided: develop a universal set of actions that must be taken to avoid take and CWA TMDLs, especially since it seems that impacts of Irrigation District practices are not well known or documented.

♦ **Comments made by Colville Confederated Tribes (Jim Priest) on February 7, 2001.**
(Proposed changes are in italic.)

1. Page iii: Change first heading to read, *Endangered Species, Clean Water and Reserved Tribal Rights*
2. Page iii: Change paragraph on 6th line
. . . . quality to be compliant with the ESA and CWA, while honoring tribal fishing rights reserved by treaty , executive order or other agreement; provide meaningful levels of harvestable fish for tribal and cultural needs; . . .
3. Page v: 4th paragraph, add sentence on end:
All ESA compliance shall be pursuant to the 1997 Secretarial Order on “American Indian Tribal Rights, Federal – Tribal Trust Responsibilities and the Endangered Species Act.”
4. Page vi: Insert a second paragraph:
No terms of any CIDMP shall impair or fringe on any federally reserved rights on Indian tribes. CIDMP assessments and implementation measures shall specifically acknowledge federally reserved tribal rights as taking priority over the interests of other entities that do not stand in a trust relationship with the United States
 This language should also be included at the end of Chapter 6, with the heading *Relation of Action Plan to Federally Reserved Tribal Rights.*
5. Page 1-1: Add bullet to Step 1:
 - *Ensure district operations are not adversely affecting tribal fishing rights secured by treaty and executive order.*
6. Move heading/text in appendix C, page C-15 “Treaty Rights and the Federal Trust Responsibility” to the main body of the document – probably at the end of Chapter 2, the Endangered Species Act and Clean Water Act: Compliance and Uncertainty.
7. Chapter 4 should include an inventory of all tribal U&A areas or other areas where tribes have reserved rights that are within the area that is impacted by the District’s operations.
8. Chapter 5 should include some discussion regarding assessing the impacts on maintenance of *harvestable* levels of fish stocks.
9. The Irrigation Districts' Executive Committee membership list should be included up-front with the acknowledgement page. (This change has been made.)
10. Timeframes for how long it will take to develop the plan in phase one is missing.